

No. 09-3590

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

FILED
Jul 08, 2010
LEONARD GREEN, Clerk

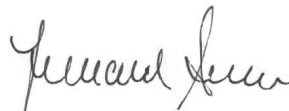
| | | |
|---------------------------|---|------------------|
| UNITED STATES OF AMERICA, |) | |
| |) | |
| Plaintiff-Appellee, |) | |
| |) | |
| v. |) | <u>O R D E R</u> |
| |) | |
| FRANK M. BENTON, JR., |) | |
| |) | |
| Defendant-Appellant. |) | |

Before: BATCHELDER, Chief Judge; KENNEDY and COOK, Circuit Judges.

The defendant appeals his conviction of interstate travel and failure to register as a sex offender in violation of the Sex Offender Registration and Notification Act (“SORNA”), 18 U.S.C. § 2250(a). On appeal, he argues that the district court erred in denying his motion to dismiss the indictment on the ground that SORNA was not applicable to his alleged criminal conduct. The government now concedes that based on the law of this court as set forth in *United States v. Utesch*, 596 F.3d 302 (6th Cir. 2010), and *United States v. Cain*, 583 F.3d 408 (6th Cir. 2009), the indictment against the defendant must be dismissed. The government moves to vacate the conviction and sentence in this case and for the dismissal of the indictment. The government’s motion, which requests the relief sought by the defendant on appeal, is well-taken.

The government’s motion is **GRANTED**. The judgment is **VACATED**, and the case is **REMANDED** to the district court with instructions to dismiss the indictment.

ENTERED BY ORDER OF THE COURT



Clerk

**UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT**

Leonard Green
Clerk

100 EAST FIFTH STREET, ROOM 540
POTTER STEWART U.S. COURTHOUSE
CINCINNATI, OHIO 45202-3988

Tel. (513) 564-7000
www.ca6.uscourts.gov

Filed: July 08, 2010

Mr. Gordon G. Hobson Jr.
Federal Public Defender's Office
10 W. Broad Street
Suite 1020
Columbus, OH 43215

Mr. Kevin Michael Schad
Federal Public Defender's Office
250 E. Fifth Street
Suite 350 Chiquita Center
Cincinnati, OH 45202

Ms. Deborah Ann Solove
U.S. Attorney's Office
303 Marconi Boulevard
Suite 200
Columbus, OH 43215

Re: Case No. 09-3590 , *USA v. Frank Benton, Jr.*
Originating Case No. : 08-00156-001

Dear Sir or Madam,

The Court issued the enclosed (Order/Opinion) today in this case.

Sincerely yours,

s/Jill Colyer
Case Manager
Direct Dial No. 513-564-7024
Fax No. 513-564-7098

cc: Mr. James Bonini

Enclosure

No mandate to issue